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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

United States of America,

Plaintiff,

VS.

Samuel Rapylee Bateman.,

Defendant.

Case No.: 3:22 CR 08092-SMB-1

DEFENDANT'S SENTENCING MEMORANDUM

COMES NOW the Defendant, Samuel Rapylee Bateman, by and through undersigned Counsel, and hereby submits his Sentencing Memorandum in support of a sentence, which is sufficient but not greater than necessary to satisfy the legitimate goals of sentencing.

This Memorandum is made based upon the papers and pleadings filed herein, the attached Memorandum of Points and Authorities, and any oral argument which may be heard at the time of sentencing December 9, 2024.

RESEPECTFULLY SUBMITTED this 5th day of December, 2024.

/s/Brian F. Russo
Brian F. Russo
Attorney for Defendant

MEMORANDUM OF POINTS AND AUTHORITIES

A. Procedural and Factual History

The Pre-Sentence Report (hereinafter “PSR”) accurately reflects the facts and procedural history from the evidence disclosed in this case.

Mr. Bateman was evaluated by a Psychiatrist who opined he is “mentally ill” and “delusional.” He explains that his upbringing in a certain lifestyle was an indoctrination that normalized certain behavior that is otherwise criminal conduct. Those reports have been presented to the Court for review and are referenced herein for mitigation purposes.

The Court, at the request of the Defendant, set a competency hearing so a judicial determination can be made on competency and in advance of a sentencing hearing. It is important to understand the doctor’s opinion and reconcile that opinion with his conclusion so a record can be made and the Court can make a decision.

B. Legal Discussion

Sentencing generally in the United States District Courts and under 18 U.S.C. § 3661, provide that *no limitation* shall be placed on the information concerning the background, character, and conduct of [the defendant] which a court of the United States may receive and consider for the purpose of imposing an

appropriate sentence.

The fundamental rule governing consideration for the district court in sentencing is the directive of Congress that the district court “shall impose a sentence sufficient, ***but not greater than necessary***, to comply with [the purposes of sentencing]” (emphasis added). 18 U.S.C. § 3553(a); *Pepper v. U.S.* 131 S.Ct. 1229, 1242 (2011) (“sentencing judge's overarching duty under § 3553(a) [is to] to impose a sentence sufficient, but not greater than necessary” to comply with the sentencing purposes set forth in § 3553(a)(2)”).¹

The factors the Court shall consider in determining what is sufficient are set out in 18 U.S.C. § 3553.

1. The advisory Guideline range is greater than necessary to satisfy the purpose of sentencing.

Courts have long recognized that where the sentence called for by the guidelines would result in punishment greater than necessary the court can depart downward. *United States v. Roth*, 2008 U.S. Dist. LEXIS 19603. A sentence to anything other than the low end of the range in the plea agreement would be far

¹ *U.S. v. Johnson* 635 F.3d 983 (7th Cir. 2011)(The essence of *Kimbrough* is to permit district courts to depart from the advisory ratio when its application would result in a sentence that is “greater than necessary to accomplish the goals of sentencing.”); *U.S. v. Chavez*, 611 F.3d 1006, 1010 (9th Cir. 2010) (explaining that § 3553(a)’s parsimony clause expresses “an overarching principle [that] necessarily informs a sentencing court’s consideration of the entire constellation of section 3553(a) factors” (alteration in original, quotation marks omitted)); *U.S. v. Carty* 520 F.3d 984 (9th Cir. 2008) (*en banc*) (this principle is the “overarching statutory charge); *U.S. v. Hussein* 478 F.3d 318 (6th Cir. 2007) (“The plain import of *Booker* is that a 1-day, below-the-Guidelines sentence, no less than a 7,300-day, above-the-Guidelines sentence, is now a viable sentence for a district court to impose so long as it is authorized by statute and reasonable within the meaning of 18 U.S.C. § 3553(a)”).

1 greater than necessary to comply with the factors set forth in 18 U.S.C. §3553(a).

2 The Doctor's report discusses Mr. Bateman's early life being raised by his
3 Father in the same manner and belief he currently espouses. The Doctor also
4 explains the brain trauma Mr. Bateman suffered and the research into how
5 individuals are indoctrinated and accept this belief system.
6

7 Logically, if the Court accepts that Mr. Bateman's victims were indoctrinated
8 into this life and into believing him, then the Court must accept to a degree that
9 Mr. Bateman who was also indoctrinated into this life and belief, should be
10 afforded some consideration in this area as well. Finally, the Doctor provides
11 treatment recommendations that would effectively address the issues and promote
12 rehabilitation.
13
14

15 **2. Protect the Public**

16
17 As noted briefly above and as detailed in the medical report, Mr. Bateman holds
18 certain beliefs, which he was taught are divine will. This belief system can be
19 undone and has been torn down through proper treatment for some of the victims.
20 Accordingly, the treatment recommendations made by the Doctor that can occur
21 during a 20 year prison sentence is sufficient to protect the public from future harm
22 by this Defendant. *U.S. v. Edwards* 595 F.3d 1004 (9th Cir. 2010) (where
23 defendant convicted of bankruptcy fraud and on probation for prior state
24 conviction for fraud and where guidelines range 27-33 months, sentence of
25 probation, seven months of which was to be served under house arrest did not

1 abuse discretion of Court in part because “Section 3553(a), for instance, does not
2 require the goal of general deterrence be met through a period of incarceration.”).

3 **3. To Provide the Defendant with Needed Educational or Vocation**
4 **Training, Medical Care, or other Correctional Treatment**

5 Sentencing Guidelines and sentencing principles generally provide that the
6 Court should consider a sentence that allows mitigation toward a specific treatment
7 purpose where either the (A) the defendant is an abuser of narcotics, other
8 controlled substances, or alcohol, or suffers from a significant mental illness, and
9 (B) the defendant's criminality is related to the treatment problem to be addressed.
10 Mr. Bateman has been diagnosed as mentally ill and in need of treatment that
11 would reduce recidivism in the specific area for which he is charged.

12 Mental Health issues are present in nearly half of incarcerated persons in the
13 United States. Lengthy prison terms do nothing to treat or rehabilitate the
14 individual or promote protection of the public when the person is released if they
15 are not properly treated while incarcerated. So, in Mr. Bateman's case, a sentence
16 at the low end of the range with treatment while incarcerated, would be a far more
17 productive a reasonable sentence. The Doctor's report identified the problems and
18 recommended treatment. Accordingly, if treatment is the path toward
19 rehabilitation, 20 years should be sufficient and anything over 20 years seems
20 overly harsh and unnecessarily punitive.

21 The United States now has the highest imprisonment rate on earth, and by a
22 large margin—most developed countries have rates of imprisonment around five to
23 ten times lower than the United States. Justice Anthony Kennedy recently
24 observed that long sentences, among other things, are “an ongoing injustice of
25 great proportions,” and that “long sentences have appalling effects on people's

1 lives.” (public conversation with Harvard Law School Dean Martha Minow,
2 reported in the *Harvard Gazette* of October 22, 2015), found at
3 [http://news.harvard.edu/gazette/story/2015/10/kennedy-assails-prison-](http://news.harvard.edu/gazette/story/2015/10/kennedy-assails-prison-shortcomings/)
4 [shortcomings/](http://news.harvard.edu/gazette/story/2015/10/kennedy-assails-prison-shortcomings/)

6 **4. Unwarranted Disparate Treatment**

7 Despite the Government and the PSR assigning the greatest amount of
8 culpability to Mr. Bateman, the Court is required to avoid unnecessary disparate
9 treatment and align his sentence with those who are similarly situated. This does
10 not mean that Mr. Bateman’s sentence must be the same as his co-defendants’ but
11 it must be proportionate to the offense conduct for this offender and in relation to
12 those who participated in the offense conduct to a similar degree.
13
14

15 18 U.S.C. § 3553(a)(6) states in pertinent part that Courts shall consider “the
16 need to avoid unwarranted sentence disparities among defendants with similar
17 records who have been found guilty of similar conduct.” In other words, those
18 who have a similar role in the offense should receive similar sentences. This
19 important factor helps to promote respect for the law, keeps the power to determine
20 sentences in the hands of judges rather than prosecutors, and ensures that
21 individuals are not unfairly punished for exercising their constitutional right to
22 trial. Accordingly, there exists a baseline and in our case anything above the low
23 end of the agreed upon range would be unnecessarily harsh.
24
25

1 In *United States v. Thurston*, 358 F.3d 51, 78 (1st Cir. 2004), the defendant,
2 William Thurston, was a corporate vice president who was convicted at trial of
3 conspiracy to defraud Medicare. At sentencing, the district court departed
4 downward from a Guideline range that exceeded the five-year statutory maximum
5 and sentenced Thurston to three months' imprisonment.
6

7 The court based the departure primarily on the fact that the company's
8 president, who participated in the same fraud, had pled *nolo contendere* to a
9 narrower conspiracy and received a sentence of probation. The government
10 appealed Thurston's sentence and on appeal, the First Circuit held that the district
11 court had no authority under the Guidelines to depart downward based on co-
12 defendant sentence disparity. *United States v. Thurston*, 358 F.3d 51, 78 (1st Cir.
13 2004). The Supreme Court, however, subsequently vacated the First Circuit's
14 decision for reconsideration in light of *Booker*.
15
16
17

18 At resentencing, the district court again imposed a non-Guideline sentence of
19 three months' imprisonment to avoid a gross disparity with the sentence of
20 probation received by Thurston's co- defendant. *United States v. Thurston*, 544
21 F.3d 22 (1st Cir. 2008). The trial court stated that while Section 3553(a)(6) is
22 primarily aimed at eliminating nationwide disparity, "there can be cases in which
23 the disparity in sentencing between similarly situated codefendants would be so
24 pronounced that to impose those disparate sentences would injure respect for the
25

1 law and confidence in the administration of justice.” The court also believed that a
 2 failure to address that disparity would send the message “that it’s just too risky to
 3 exercise [the] right to stand trial.”
 4

5 So far, as can be determined, the highest sentence is Josephine Bistline who
 6 received a sentence of 15 years imprisonment. Josephine Bistline pled to Counts
 7 27-31 of the third superseding indictment and is similarly situated to the Defendant
 8 in this case. If the Court were to sentence Mr. Bateman to any more than the low
 9 end of the applicable range, the disparity would be so pronounced that it would
 10 defy rational explanation and erode confidence in the administration of justice.
 11
 12 *United States v. Thurston*, 544 F.3d 22 (1st Cir. 2008).
 13

14 CONCLUSION

15 Twenty years in prison is a very long time. However, this time could be
 16 spent in treatment as recommended by the Doctor. Twenty years is also greater
 17 than any other offender in this case so far. There is little merit to an argument that
 18 anything over 20 years is not overly punitive. Further, a sentence above 20 years
 19 fails to serve any other legitimate function of sentencing in the United States, that
 20 cannot be accomplished within those 20 years.
 21
 22

23 RESEPECTFULLY SUBMITTED this 5th day of December, 2024.

24 /s/ Brian F. Russo
 25 Brian F. Russo
 Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrant:

Dimitra Sampson, AUSA

/s/Brian F. Russo